

WARWICK ZONING BOARD OF REVIEW  
MINUTES OF THE JULY 21, 2015 MEETING

A regular hearing of the Warwick Zoning Board of Review was held on Tuesday, July 21, 2015 at 6:00 P.M. at Warwick City Hall, in the Warwick City Council Chambers, 3275 Post Road, Warwick, Rhode Island. Donald Morash, Chairman, called the meeting to order.

The Secretary called the roll and noted the following members present:

Donald Morash, Chairman  
Richard Corley, Vice Chairman  
Everett O'Donnell  
Mark McKenney  
Beverly Sturdahl

Alternates: Julie Finn  
Paul Wyrostek

Also present: Diana Pearson, Esq., Assistant City Solicitor  
Richard Crenca, Warwick Planning Department  
Carol Chevalier, Secretary  
Mary Ellen Hall, Stenographer

The Chairman called the first petition.

Petition #10330

Ward 7

1230 Greenwich Avenue

The petition of MMS Realty, LLC 110 Cahonchet Trail, Cranston, RI & Molecular MS Diagnostics, LLC, 1230 Greenwich Avenue, Warwick, RI, for a request for a special use permit to occupy existing building for a research/testing/laboratory facility for medical purposes (analysis services for the pharmaceutical industry), northeasterly corner of Greenwich Avenue (1230) and Bragger Street, Warwick, RI, Assessor's Plat 245, Lots 158 & 159, zoned General Business.

Steven Moretti, 1040 Reservoir Avenue, Cranston, RI, representing the petitioner was present.

Daniel McGerra, 110 Canonchet Trail, petitioner, was also present

The attorney stated that the largest part of his operation is for the laboratory and research. There are nine offices, three labs and a conference room. They are a testing facility for pharmaceuticals. There are four full time employees. There is sufficient parking and there is one delivery per day. There is no traffic in or out.

Mr. McGerra stated that he did not obtain a C.O. The bank did not require it they thought it was offices. He has been in business in another location for eight years and has not had a problem with traffic.

Mr. O'Donnell asked the petitioner if he was operating from the building.

Mr. McGerra stated that he has been since March.

Mr. Corley stated they are helping spur the economy and he does not see any major infringement on the zoning regulations. It should be supported and it is a low intense use of the property. With that statement he made a motion to approve the petition. The motion was seconded by Everett O'Donnell and passed unanimously by the Board that the petition be GRANTED.

The Chairman stated that the property had been on the market for a long time.

Petition #10229

Ward 5

173 Vineyard Road

The petition of Giovanni Giarusso Revocable Trust, 369 Trimtown Road, Scituate, RI, for a request for a dimensional variance/use variance to legalize existing addition containing an accessory family dwelling unit (in-law apartment), said addition having less than required side yard setback, accessory dwelling unit being larger than allowed by ordinance with two (2) separate entrances, northerly side of Vineyard Road (173), Warwick, RI, Assessor's Plat 351, Lot 198, zoned Residential A-7.

K. Joseph Shekarchi, Esq., representing the petitioner, was present.

Mr. Crenca recused himself from the case.

Mr. Corley read recommendations from Patricia Reynolds of the Warwick Planning Department into the record.

Anthony Giarusso, petitioner, was present.

The attorney stated that there are no problems with the stipulations. He did state that they do not agree with stipulation #3. They would like to preserve the entrance and would be willing to seal it off or agree to keep it locked. The entrance leads to the house. The property was foreclosed

on and there were no proper approvals issued. The property would be occupied by a mother and daughter.

Mr. Corley asked what would prevent it from being turned into a separate residence.

The attorney stated that the decision of the Board would be recorded in the land evidence records. The petitioner is applying for the property approvals and has agreed to all of the stipulations. There are ways to seal the doorway without removing the doorway and the Building Official could indicate how it could be done.

Mr. McKenney was concerned about sealing the door for fire safety reasons.

Mr. Corley stated that he could not see the logic in the door being closed. It would be a safety issue.

Mr. O'Donnell stated that one window that is 20" wide allows for 2 means of ingress and egress.

Mr. McKenney stated that there is a concern there and that #3 should be deleted.

Mr. Corley stated that it would have the appearance of a rental unit and that the stipulation be for a family member only and it should be defined in the stipulations.

The attorney stated that the work was done after a divorce and the petitioner purchased it back from his ex-wife.

Timothy Sullivan, 165 Vineyard Road, was present in objection.

He was concerned that the property could be turned into a multi-family and not be an in-law. He was also concerned about the character of the neighborhood.

Mr. Corley made a motion to approve the petition. He stated that all of the stipulations with the exception of #3 be part of the motion. The accessory unit shall only be occupied by a family member of the principle occupant. It is clear that it is used by an extended family member. He grew up in Meadowbrook and there were many grandparents living with families. The motion was seconded by Mr. McKenney and passed unanimously by the Board that the petition be GRANTED with the stipulations with the exception of #3.

Petition #10331

Ward 8

1000 Bald Hill Road

The petition of Linear Reatail Warwick #1, LLC, 5 Burlington Woods, Burlington, MA and Mohegan Holding Co., LLC 13 Crow Hill Road, Uncasville, CT for a request for a dimensional variance to have a fast food restaurant on subject property with less than required off street

parking, easterly side of Bald Hill Road (1000), Warwick, RI, Assessor's Plat 260, lot 32, zoned General Business.

K. Joseph Shekarchi, Esq., representing the petitioner was present.

Mr. Corley read the Planning Department recommendations into the record.

Mr. Shekarchi stated that they agree to the stipulations.

The attorney stated that the restaurant would not have a drive thru. They are going to be applying to the Board of public safety for a liquor license for beer and wine. They are proposing ten other locations in Rhode Island. They are part of the Mohegan Sun Group. The parking area contains 300 spaces. He stated that there has not been a problem with parking in the plaza. He represented the property owner in the past. He spoke with the councilman in the area and he had visited one and welcomes the business to the City of Warwick. When the application was filed Burger King has some concerns they addressed the concerns and presented a letter in support. (Petitioner's Exhibit #1).

Dave Atkinson, 1184 River Road, Mystic, CT, petitioner, was also present.

He stated that he works for the Mohegan tribe and this is a franchise and most of the food would be eaten on the premises. The franchise was founded in Colorado and it is a casual sit down concept.

Mr. Corley asked if the group was engaged in any other businesses.

Mr. Atkinson stated that they own other franchises Jersey Mike's, Arougas Sports Bar this is the second one in RI.

Mr. McKenney questioned overflow parking.

Mr. Shekarchi stated that the hours for the businesses in the plaza stagger and there is not a problem.

Mr. Corley made a motion to approve the petition. He stated that the area has many restaurants along Rte. 2. They are introducing a brand new company to RI and they have successful in CT they understand the stipulations and agreed to them they are incorporated in the motion. The motion was seconded by Everett O'Donnell and passed unanimously by the Board that this petition be GRANTED with stipulations.

Petition #10203

Ward 6

Haswill Street

The petition of Carol A. Ranucci, Trust, 24 Dan Street, Warwick, RI, for a request for a dimensional variance/use variance/special use permit, to construct a 22' x 22' garage on subject

property, subject property does not contain a principle use, proposed garage having less than required front and rear yard setbacks, subject property being an undersized non-conforming lot, easterly side of Haswill St., Warwick, RI, Assessor's Plat 361, Lot 260, zoned Residential A-40.

Joseph Brennan, Esq. representing the petitioner was present  
Carol Ranucci, petitioner, was also present.

The attorney stated that they have been before the Board before and they made changes to the plan as requested. The request remains for a garage. They agreed to all of the stipulations.

The Board, petitioner and attorney discussed the basis of the request and the need for the garage. They discussed the character of the surrounding area and the existing uses within the area.

The petitioner presented letters from abutters in favor (Petitioner's Exhibit #1)

Rhae McPhail, 8 Bayonne Avenue, was present in objection.

She stated that the petitioner has been making significant changes to the character of the area. She has taken away water views for the abutters.

Leslie Cabana, 20 Dan Street, was present in objection.

The area has become all rentals and the character of the area is being jeopardized. Across the street a garage became a rental unit.

Mr. Ranucci stated that the property was up for sale anyone of the neighbors could have purchased it.

Rhae McPhail stated that she did not know the property was for sale there were no signs on the property.

Mr. McKenney made a motion to deny the petition. The motion was seconded by Mr. Corley. Mr. Corley stated that a garage on a separate lot without a principle use is not in keeping with the character. The petitioner is not being denied all beneficial use of the property. The petition was DENIED by a unanimous vote by the Board.

Petition #10223

Ward 6

29 Hardwick Street

The petition of Robert Davis, Jr., 29 Hardwick Street, Warwick, RI, for a dimensional variance to construct a 7' x 20' front porch on existing dwelling, proposed porch having less than required front yard setback, northeasterly corner of Hardwick Street (29) and Stone Avenue, Warwick, RI, Assessor's Plat 363, Lot 662, zoned Residential A-7.

Robert Davis & Patricia Davis, petitioners, were present.

They stated that they would like to construct a 7' x 20' farmers porch on their home. The porch is within the 25' front yard setback. It would be approximately 18' to 19' from the property line. They said they spoke with the neighbors.

Mr. Corley stated that the addition of the porch would be an improvement and there were no objections. The only infringement would be on the street and not to the neighbors. With that statement he made a motion to approve the petition. The motion was seconded by Everett O'Donnell and passed unanimously by the Board that the petition be GRANTED.

Petition #10224

Ward 1

3 Colgate Street

The petition of Wilfred Guerin, 3 Colgate Street, Warwick, RI, for a request for a dimensional variance to construct a shed (accessory structure 6' x 8') on lot, subject property does not contain a principle use, proposed shed having less than required side street setback, southwesterly corner of Colgate Street (3) and Columbia Avenue, Warwick, RI, Assessor's Plat 301, Lots 432, 433, 442 & 443, zoned Residential A-7.

Wilfred Guerin, petitioner, was present.

The petitioner stated that they would like construct a shed on the property. They own a series of lots at the end of Columbia Avenue and they shed would not affect any of the neighbors. The relief requested is from the front property line. It is not the same lot that the house is on. They spoke to their neighbors. There would be no utilities to the shed.

Mr. Corley stated that the lots are already considered one lot and the shed would not interfere with any of the neighbors. With that statement he made a motion to approve the petition. The motion was seconded by Everett O'Donnell and passed unanimously by the Board that the petition be GRANTED.

Petition #10225

Ward 2

49 Broad Street

The petition of Melissa & Derrick Butler, 49 Broad Street, Warwick, RI, for a request for a dimensional variance to construct a second floor addition over existing dwelling and a two story addition (approximately 30' x 20') with a 5' x 20' porch, proposed additions and porch having less than required front yard setback, westerly side of Broad Street (49), Warwick, RI, Assessor's Plat 296, Lot 14, zoned Residential A-7.

Melissa & Derrick Butler, petitioner's, were present.

Richard Crenca, Warwick Planning Department read recommendations into the record.

He stated that the addition not be used as an apartment or accessory family dwelling unit.

The petitioners described the plan to the Board and the need for the additional living space.

Mr. McKenney made a motion to grant the petition with the stipulation that the addition shall not be used as an apartment or accessory family dwelling unit. The petitioner is trying to realize all beneficial use of the property and the addition fits in with the character of the neighborhood and there were no objector's. The motion was seconded by Beverly Sturdahl and passed unanimously by the Board that the petition be GRANTED with stipulations.

Petition #10226

Ward 9

146 Hedgerow Drive

The petition of Katherine Doorley, 146 Hedgerow Drive, Warwick, RI, for a request for a dimensional variance to construct a 9' x 12' addition to the rear of the existing dwelling, proposed addition having less than required rear yard setback, easterly side of Hedgerow Drive (146), Warwick, RI, Assessor's Plat 223, Lot 78, zoned Residential A-15.

Gary Johnson, contractor, was present.

Katherine Doorley, petitioner, was also present.

The petitioner is proposing to extend her kitchen the relief requested is for 2 ½ feet. The required setback is 30'.

Mr. Corley made a motion to approve the petition. There were no objections. The relief requested is minimal. The motion was seconded by Everett O'Donnell and passed unanimously by the Board that the petition be GRANTED.

Petition #10227

Ward 7

419 Nausauket Road

The petition of John Duggan, 419 Nausauket Road, Warwick, RI, for a request for a dimensional variance to construct a second floor/dormer addition on existing dwelling with less than required front yard and side yard setbacks, to legalize location of existing carport, said carport having less than required front yard and side yard setbacks, westerly side of Nausauket Road (419), Warwick, RI, Assessor's Plat 367, Lot 162, zoned Residential A-7.

John Duggan, petitioner, was present.

Archie Kenyon, Esq., 133 Old Tower Hill Road, Wakefield, representing the petitioner, was present.

They are requesting approval for a dormer addition. They would be making a cape a colonial. There would be no changes to the setbacks. The variance requested is 14.8' front yard 4.7' side yard. The petitioner bought the house in March and has been making extensive renovations to the dwelling.

Mr. Corley made a motion to approve the petition. He stated that the addition would be on the same footprint as the existing house. The petitioner is renovating a house that was in disrepair

and it is a significant improvement to the property and area. The motion was seconded by Everett O'Donnell and passed unanimously by the Board that the petition be GRANTED.

Petition #10228

Ward 5

185 Tidewater Drive

The petition of Jerry & Ellen Danowski, 185 Tidewater Drive, Warwick, RI, for a request for a dimensional variance to construct a two story addition to existing dwelling (approx.. 23' x 30') for garage and living space with less than required side yard setback, to construct a deck on existing pool with less than required side yard setback, westerly side of Tidewater Drive (185), Warwick, RI, Assessor's Plat 335, Lot 322, zoned Residential A-7.

Jerry Danowski & Ellen Danowski, petitioner's, were present.

They are proposing to construct an addition a garage with a second floor above. They are seeking side yard relief. They are replacing a shed and the deck for the pool was removed. The construct a new pool and are seeking relief for the pool deck. The second floor would be a family room with stairs down from the family room.

Mr. Corley made a motion to approve the petition. The relief requested is minimal and the improvement to the property justifies the relief. The motion was seconded by Mr. McKenney and passed unanimously by the Board that the petition be GRANTED.

Petition #10221

Ward 6

875 Oakland Beach Ave.

The petition of James Rengigas, 9 Mathew Drive, Johnston, RI, for a request for a dimensional variance to demolish existing structures on subject property and construct a 32' x 28' one story building (with 4' x 32' overhang) to be occupied for fast food restaurant operation, proposed building having less than required front yard and side yard setbacks, dumpster having less than required setback from residential zone, outside seating having less than required side yard and front yard setbacks, less than required setbacks for parking, less than required landscaping and landscape buffer, westerly side of Oakland Beach Avenue (875), Warwick, RI, Assessor's Plat 375, Lot 437, zoned General Business.

Robert Flaherty, Esq., representing the petitioner, was present.  
James Rengigas, petitioner, was also present.

Richard Crenca, Warwick Planning Department, stated that there are no changes to his recommendations from the original hearing and asked that they be entered in for the record.

The attorney described the new plan and the relief requested to the Board.

He presented expert witnesses.



Robert DeGregorio, Real Estate expert (Motion was made by Everett O'Donnell, seconded by Beverly Strudahl and passed unanimously by the Board)

He described his findings to the Board.

John DeSimone, Esq., representing the abutting property owner (S.G. Assoc.) cross examined the expert witness.

James Rengigas, petitioner described his plan to the Board. Mr. DeSimone questioned the petitioner regarding the plan.

Paul Bannon, was accepted as an expert witness in the field of traffic engineering (Motion was made by Everett O'Donnell, seconded by Beverly Sturdahl and passed unanimously by the Board)

He described the findings of his study to the Board.

John DeSimone, Esq., representing the abutting property owner (S.G. Assoc.) cross examined the expert witness.

John DeSimone, Esq., representing SG Assoc., presented the following expert witness.

Steven Cabral, Engineer, (Motion was made by Richard Corley, seconded by Mark McKenney and passed unanimously by the Board)

Mr. Cabral presented a report to the Board (Objector's Exhibit #1) He described the findings of his report to the Board.

An alternative plan was presented as Objector's Exhibit #2.

There was discussion between the Board and the expert witness.

Edward Pimentel was accepted as an expert witnesses in the field of Planning and Land Use (Motion was made by Richard Corley, seconded by Mark McKenney and passed unanimously by the Board)

Mr. Pimental presented a report to the Board that was marked as Objector's Exhibit #3. Mr. Pimentel described the findings of his report to the Board.

There was lengthy discussion between the Board, the opposing attorney and the petitioner's attorney.

Julie Finn stated that the area does not warrant another take out. The area is already overflowing with debris.

Mr. O'Donnell stated that the request is reasonable. The petitioner scaled down the plan and he has a right to open a restaurant. That there is plenty of parking in the area. The City is pro business and the petitioner adjusted the plan.

Mark McKenney stated that the petitioner would have a hardship if he is not able to open a business. The property values would not be negatively impacted.

Mr. O'Donnell made a motion to approve the petition with the stipulations from the Planning Department. The motion was seconded by Beverly Sturdahl and passed by a four to one vote (Mr. Morash voted to deny) that the petition be GRANTED with the stipulations.

The Chairman adjourned the hearing at 11:30 P.M.

BY ORDER OF THE ZONING BOARD OF REVIEW, WARWICK, RHODE ISLAND

Donald G. Morash, Jr., Chairman